

Instrument prepared by:

VIRGINIA GAS AND OIL BOARD

Order recorded under:

CODE OF VIRGINIA

§ 45.1-361.26

VIRGINIA:

BEFORE THE GAS AND OIL BOARD

APPLICANTS:

CNX Gas Company on behalf of Joel. Absher
relative to Case No: CL 11-461.

DOCKET NO.

02-1015-1083-01

Issuance: A Supplemental Order for Disbursement of Escrowed Funds

RELIEF SOUGHT:

Action: Amending Prior Orders Affecting Drilling Unit EE36, Tract 2B
(Referenced herein as "the Subject Drilling Unit")Location: Russell & Tazewell County, VirginiaAction Details:

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit EE36;
- (2) To provide each applicant an accounting of unit productions and payments to the unit escrow account.
- (3) To disburse unit funds to the Applicants, in accordance with their Unit Ownership Interests relative to those funds deposited by the Unit Operator into Subject Drilling Unit's Escrow Subaccount for VGOB Tract(s) identified in Table 1.

Tax Map Numbers are located on the Tract Identification sheet attached to the plat.

REPORT OF THE BOARDFINDINGS AND ORDER

1. **Hearing Date and Place:** This matter came on for final hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on November 15, 2011, at the Russell County Government Conference Center, 139 Highland Drive Lebanon, VA
2. **Appearances:** Mark A. Swartz of Swartz Law Offices appeared for the Applicant; and Sharon M.B. Pigeon, Assistant Attorney General, was present to advise the Board.
3. **Jurisdiction and Notice:** Pursuant to Va. Code §§ 45.1-361.1 *et seq.*, and in particular Va. Code §§ 45.1-361.21 and 45.1-361.22, the Board finds that it has jurisdiction over the establishment and maintenance of an escrow account, with tract subaccounts, for each of the coalbed methane gas drilling units established by the Board through its field rules that are subject to a Board pooling order. Further, the Unit Operator is required to deposit, as applicable, those funds specified in Va. Code § 45.1-361.21.D., 45.1-361.22.A.2, 45.1-361.22.A.3 and 45.1-361.22.A.4 into the applicable escrow tract subaccounts. The Board finds that: (1) while it does not have jurisdiction to resolve conflicting claims to the ownership of the Coalbed Methane Gas produced by the Unit Operator from wells located on Subject Drilling Unit, and (2) while it does not have jurisdiction to interpret agreements by and between the Gas owners/claimants and/or the Unit Operators or to abridge or contravene the provisions of such agreements,

(3) pursuant to Va. Code § 45.1-361.22.A.5, the Board does have jurisdiction and authority to disburse funds from the Escrow Account provided the Board has been provided with a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between the conflicting claimants or an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein or a decision from a court appointed Arbitrator.

4. **Prior Proceedings:**

4.1 (a) On July 11, 2003 the Board executed its order pooling interests in the Subject Drilling Unit which was recorded in Tazewell County on July 14, 2003 at instrument number 030003768 and in Russell County on July 14, 2003 at Deed Book 587.

(b) On March 8, 2005 the Board executed its Supplemental Order in the Subject Drilling Unit which was recorded in Tazewell County on March 14, 2005 at Instrument 050001122 and in Russell County on March 14, 2005 at Deed Book 626.

4.2 To the extent claims to the gas were in conflict, pursuant to Va. Code § 45.1-361-22 payments attributable to said conflicting claims were ordered deposited by the Unit Operator into the escrow account established by the Pooling Orders (herein "Escrow Account"). According to the Pooling Orders and testimony Joel Absher, he is entitled to 100% of the Royalties according to the final order which was entered by the court, Case Number CL11-461 on June 13, 2011 adjudicating the ownership of coalbed methane gas.

4.3 The Unit Operator gave notice to Joel Absher and Coal Mountain Mining Co. Limited Partnership, LLC that the Board would consider a disbursement authorization at its hearing on October 18, 2011 which was continued to November 15, 2011 and consider whether to: (1) amend the Pooling Order to provide for the disbursement a portion of funds on deposit in the Escrow Account attributable to Tracts 2B as identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to Tract 2B, the interests of Applicant identified in the miscellaneous petition in the Escrow Account, and (3) continue the escrow account under this docket number because parties other than those seeking disbursement under this order are subject to continued payments in the escrow.

4.4 The Unit Operator filed the attached accounting (Exhibit A-1) for Subject Drilling Unit's Escrow Account with the Board ("Accounting").

5. **Findings:**

5.1. Va. Code 45.1-361.22.5 provides:

The Board shall order payment of principal and accrued interests, less escrow account fees, from the escrow account to conflicting claimants within thirty days of receipt of notification of (i) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them or (ii) an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein. The amount to be paid to the conflicting claimants shall be determined based on the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing made part of the pooling order that established the escrow account, the operator's records of deposits attributable to those tracts for which funds are being requested, and the records of the escrow account for the coalbed methane gas drilling unit. The interests of any cotenants who have not entered into an agreement shall remain in the escrow account.

5.2 Applicant has certified and represented to the Board that:

(1) Net interests attributable and to be disbursed to Applicants are shown in Table 1.

VGOB Approved Disbursement
Unit EE36
VGOB-02-1015-1083-01

Table 1
A portion of Tract 3 and 3C

		Fractional Ownership in Tract	Net Acreage Ownership in Tract	Royalty Split Agreement	Escrowed Acre Disbursed	Percent of Escrowed Funds Disbursed
Tract	Disbursement Table					
	Total acreage in escrow before disbursement				7.6170	
2B	Tract 2B paid out in its entirety by court order	7.53				
2B	Coal Mountain Mine					
2B	Joel Absher (cons. with G. G. McGuffin)		4674 Road Ridge Turnpike, Raven, VA 24610	0.0100	100.0%	0.0100
						0.1313%

6. Relief Granted:

For the reasons set forth in Paragraph 4 and 5 above, and based upon the Accounting and Table 1 above, the Escrow Agent is ordered to within 10 days of receipt of this executed order disburse funds for the unit and applicants detailed in Table 1 above.

Exhibit E to the Pooling Order, showing owners subject to escrow, is deleted and replaced with the Exhibit E attached to this order. Further, the Supplemental Order filed in this cause is hereby modified to delete the requirement that payments attributable to the conflicting coalbed methane gas ownership interests of those applicants indicated in Table 1 be deposited by the Unit Operator into the Escrow Account, and, because there are other owners subject to escrow under the Supplemental Order, the Escrow Agent is directed to continue the Escrow Account for Subject Drilling Unit. To the extent not specifically granted herein, any other or further relief is denied.

7. Conclusion:

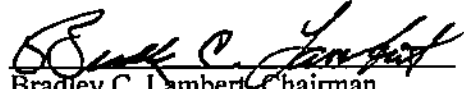
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and **IT IS SO ORDERED**.

8. Appeals:

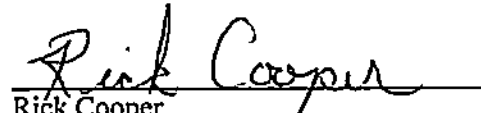
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated by the State Corporation Commission is a party in such action, the court shall hear such appeal de novo.

9. **Effective Date:** This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 19 day of Dec., 2011, by a majority of the Virginia Gas and Oil Board.



Bradley C. Lambert, Chairman
Virginia Gas and Oil Board

DONE AND PERFORMED this 19th day of Dec., 2011, by an Order of this Board.

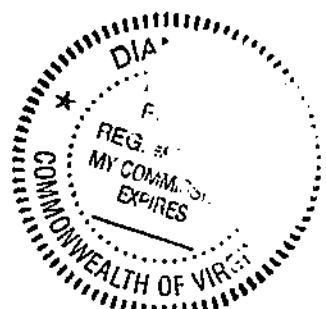

Rick Cooper
Principal Executive to the Staff
Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA)
COUNTY OF RUSSELL)

Acknowledged on this 19th day of Dec., 2011, personally before me a notary public in and for the Commonwealth of Virginia, appeared **Bradley C. Lambert**, being duly sworn did depose and say that he is the Chairman of the Virginia Gas and Oil Board and **Rick Cooper**., being duly sworn did depose and say that he is Principal Executive to the Staff of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.


Diane J. Davis
Notary Public #174394

My commission expires: 09/30/2013



PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL
DOCKET NO: VGOB 02-1015-1083-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM
ESCROW REGARDING TRACT(S) 2B
(2) AND AUTHORIZATION FOR DIRECT
PAYMENT OF ROYALTIES (3) REMOVE
PREVIOUS UNKNOWN/UNLOCATABLE
RESPONDENTS FROM EXHIBIT E

HEARING DATE: October 18, 2011

DRILLING UNIT: EE-36

TAZEWELL & RUSSELL COUNTIES, VIRGINIA

MISCELLANEOUS PETITION

1. Petitioner and its counsel: Petitioner is CNX Gas Company LLC, 2481 John Nash Boulevard, Bluefield, West Virginia 24701, 304/323-6500. Petitioner's counsel is Mark A. Swartz, SWARTZ LAW OFFICES, PLLC., 601 Sixth Avenue, Suite 201, P.O. Box 1808, St. Albans, WV 25177-1808.

2. Relief sought: (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent(s) attributable to Tract(s) 2B as depicted upon the annexed Exhibit A-1; and (2) authorization to begin paying royalties directly to the prevailing plaintiff; Joel Absher (3) Remove previous unknown/unlocatable respondents from Exhibit E, owners were located and never escrowed.

3. Legal Authority: Va. Code Ann. § 45.1-361.1 et seq., 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.

4. Type of well(s): Coalbed methane.

5. Factual basis for relief requested : Joel Absher, is entitled to 100% of the royalties according to the corrected final order which was entered on June 13, 2011, Case No:CL11-461, adjudicating the ownership of coalbed methane gas. This order allows the Applicant and Designated Operator to pay royalties directly to the prevailing plaintiffs identified in Exhibit EE annexed hereto and the annexed Exhibit A-1, further, specifies how said royalties are to be paid.

6. Attestation: The foregoing Petition to the best of my knowledge, information, and belief is true and correct.

CNX GAS COMPANY LLC
BY ITS PROFESSIONAL MANAGER
CNX GAS COMPANY LLC PETITIONER

By: 

Anita D. Duty
Pooling Supervisor
Consol Energy Inc.
2481 John Nash Blvd.
Bluefield, West Virginia 24701

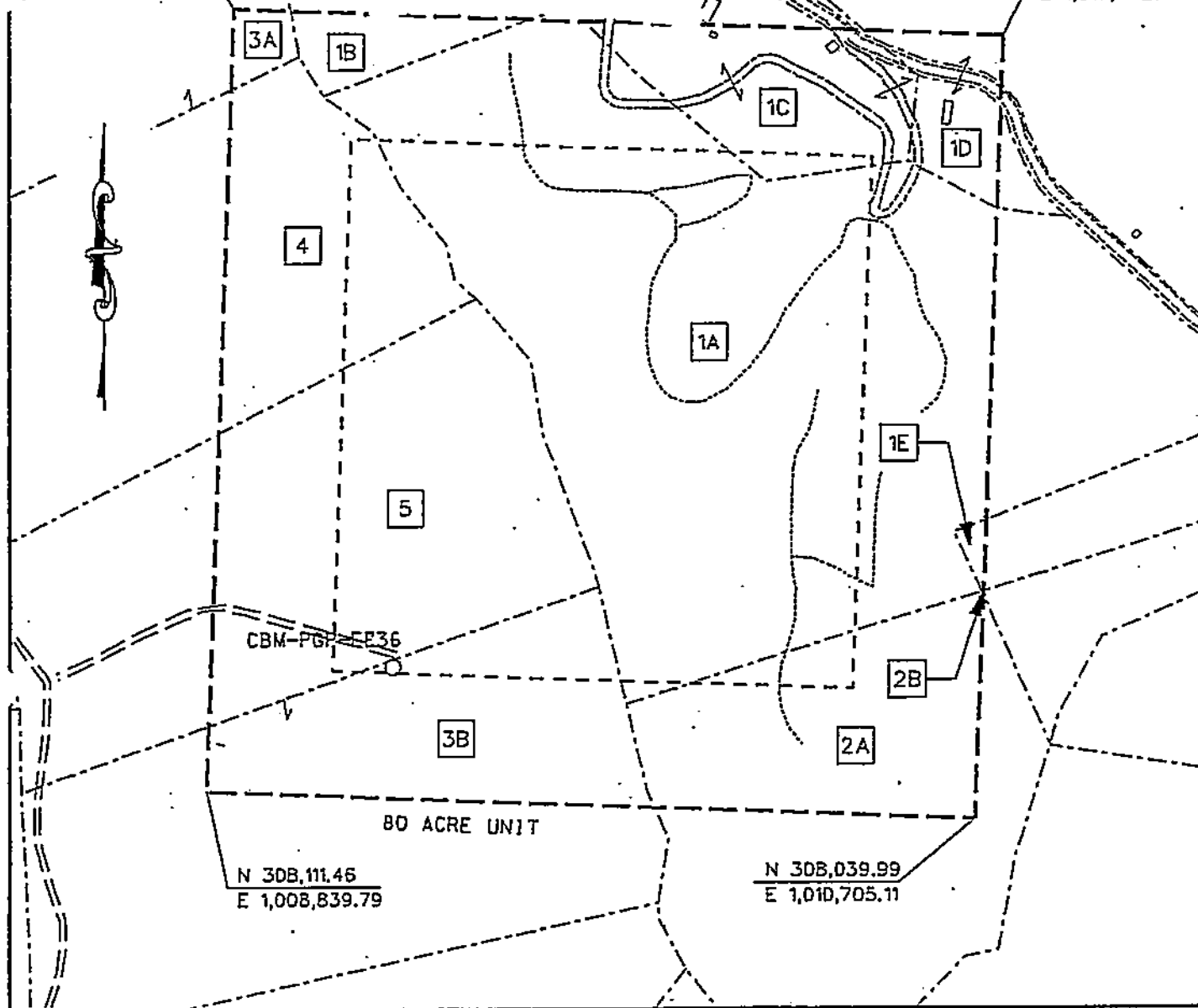


BK 1107PG0081

BOOK - 743 PAGE 0625

N 309,980.54
E 1,008,907.72

N 309,909.20
E 1,010,772.98



Company Pocahontas Gas Partnership Well Name and Number W-1 EE36
Tract No. _____ Elevation _____ Quadrangle Keen Mountain
County Tazewell/Russell District Maiden Springs/New Garden Scale: 1" = 400' Date 9/11/82
This plot is a new plot X ; an updated plot _____ ; or a final plot _____

Form DGO-GD-7
Rev. 9/91

Claude D. Morgan
Licensed Professional Engineer or Licensed Land Surveyor

(Affiant's Seal)

CNX Gas Company LLC**UNIT EE-36****Tract Identifications**

1. Coal Mountain Mining Company Limited Partnership, L.L.P. Tr. 38 – All Minerals
Reserve Coal Properties Company – Below Drainage Coal Leased
Knox Creek Coal Corporation – Above Drainage Coal Leased
CNX Gas Company LLC – Oil, Gas and CBM Leased
42.30 acres 52.8750%

- 1A. James McGlothlin, et ux – Surface (Tax Map 84 Parcel 106)
- 1B. Harold D. McGlothlin, et al – Surface (Tax Map 84 Parcel 107)
- 1C. Charles G. McGlothlin, et al – Surface Tax Map 84 Parcel 108)
- 1D. Charles G. McGlothlin, et al – Surface (Tax Map 84 Parcel 110)
- 1E. Grady G. McGlothlin – Surface (Tax Map 84 Parcel 111)

- 2A. Coal Mountain Mining Company Limited Partnership, L.L.P. Tr. 18 – Coal
Consolidation Coal Company – Below Drainage Coal Leased
Knox Creek Coal Corporation – Above Drainage Coal Leased
CNX Gas Company LLC – CBM Leased
James M. McGlothlin, et ux – Surface, Oil and Gas
(Tax Map 84 Parcel 116)
7.45 acres 9.3125%

- 2B. Coal Mountain Mining Company Limited Partnership, L.L.P. Tr. 18 – Coal
Consolidation Coal Company – Below Drainage Coal Leased
Knox Creek Coal Corporation – Above Drainage Coal Leased
CNX Gas Company LLC – CBM Leased
Grady G. McGlothlin – Surface, Oil and Gas
(Tax Map 84 Parcel 115)
0.01 acres 0.0125%

- 3A. William R. McCall – Fee
CNX Gas Company LLC – CBM Leased
(Tax Map 84 Parcel 101)
0.52 acres 0.6500%

- 3B. William R. McCall – Fee
CNX Gas Company LLC – CBM Leased
(Tax Map 84 Parcel 107)
8.15 acres 10.1875%

4. Avis Belle Plaster, et al (Lot 5) – Fee
CNX Gas Company LLC – Oil and Gas Leased (69.1%)
CNX Gas Company LLC – CBM Leased (81.61%)
(Tax Map 84 Parcel 4)
7.53 acres 9.4125%

CNX Gas Company LLC
UNIT EE-36
Tract Identifications

5. Avis Belle Plaster, et al (Lot 6) – Fee
 CNX Gas Company LLC – CBM Leased (100%)
 (Tax Map 84 Parcel 2)
 14.04 acres 17.5500%

BK 1107PG0084

Exhibit E

Unit EE-36

Docket #VGOB 02-1015-1083-01

List of Conflicting Owners/Claimants that require escrow

BOOK - 743 PAGE 0628

	Acres in Unit	Interest in Unit
<u>Tract #2A, 7.45 acres</u>		
<u>COAL OWNERSHIP</u>		
(1) Coal Mountain Mining Company, Tr.18 Limited Partnership, L.L.P. P.O. Box 675 Tazewell, VA 24651	7.45 acres	9.3125%
<u>OIL & GAS OWNERSHIP</u>		
(1) CNX Gas Company LLC 2481 John Nash Blvd Bluefield, WV 24701 (Previously James M. McGlothlin, et ux)	7.45 acres	9.3125%
<u>Tract #4, 7.53 acres</u>		
<i>Escrow due to Unknown and/or Unlocatable</i>		
<u>COAL OWNERSHIP</u>		
(1) Avis Belle Plaster, et al. (Emily McGlothlin Heirs) (Lot #5)	7.53 acres	9.4125%
(x) Clarence Randall McGlothlin Address Unknown	0.157 acres 1/48 of 7.53 acres	0.1961%
<u>OIL & GAS OWNERSHIP</u>		
(1) Avis Belle Plaster, et al. (Emily McGlothlin Heirs) (Lot #5)	7.53 acres	9.4125%
(x) Clarence Randall McGlothlin Address Unknown	0.157 acres 1/48 of 7.53 acres	0.1961%

BK 1107PG0085

Exhibit EE

Unit EE-36

Docket #VGOB 02-1015-1083-01

Book 743 page 1029

List of Conflicting Owners/Claimants with Royalty Agreements and/or Court Decisions

	Acres in Unit	Interest in Unit	Percent of Escrow
<u>Tract #2B, 0.01 acres</u>			
<u>COAL OWNERSHIP</u>			
(1) Coal Mountain Mining Company, Tr.18 Limited Partnership, L.L.P. P.O. Box 675 Tazewell, VA 24651	0.01 acres	0.0125%	n/a
<u>OIL & GAS OWNERSHIP</u>			
(1) Joel Absher 4674 Road Ridge Turnpike Raven, VA 24639 (Previously Grady G. McGlothlin)	0.01 acres	0.0125%	0.1313%

Note: CBM ownership was adjudicated to the prevailing plaintiffs under Case no. CL 11-461
The Corrected Final Order was executed June 13, 2011 and plaintiffs were awarded 100% of the
Coalbed Methane Gas underlying this tract.

BK 1107PG0086

Tract-by-Tract Escrow Calculation
Account Balances as of 8/31/11

Unit EE36
 VGOB 02-1015-1083-01
 Acres Escrowed: 7.61700

Owners	Tract #	Acres	Percent of Escrow (100%)	Amount Due Owners \$33,622.86
Coal Mountain Mining Co. Limited Partnership, LLP - Coal Joel Absher. - O, G, & CBM	2b	0.01	0.1313%	\$44.14

Wells contributing to the escrow account: EE36 and EE36A

INSTRUMENT #120000137
 RECORDED IN THE CLERK'S OFFICE OF
 TAZEWELL COUNTY ON
 JANUARY 13, 2012 AT 10:02AM
 JAMES E. BLEVINS, CLERK
 RECORDED BY: ADR

1200069

VIRGINIA: IN THE OFFICE OF THE CLERK OF THE CIRCUIT OF RUSSELL COUNTY, 11/10/ 2012. This deed was this day presented in said office, and upon the certificate of acknowledgment thereto annexed, admitted to record at 2:46 o'clock P M. after payment of \$ tax imposed by Sec. 58.1-802.

Original returned this date to: Sharon Hight

TESTE: ANN S. McREYNOLDS, CLERK
 BY: Indira Cook D. CLERK